

# LAND TRANSACTION TAX AND ANTI-AVOIDANCE OF DEVOLVED TAXES (WALES) ACT 2017

---

## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3 – Calculation of Tax and Reliefs**

##### *Sections 24–29 - Calculation of tax*

35. This Act does not set out the tax rates and tax bands for LTT but makes provision for the Welsh Ministers to specify tax bands and the percentage tax rate for each band through regulations. Regulations must specify the tax bands and tax rates for residential and non-residential property transactions, and higher rates residential property transactions. The regulations must specify a zero rate band and at least two tax bands above the zero rate band, together with the tax rate for each such band for residential and non-residential property transactions. The regulations must also specify, in relation to higher rates residential property transactions, three or more tax bands which must be progressive in nature and higher than would be applicable were the transaction a residential property transaction.
36. The first set of regulations made under section 24 are subject to the affirmative procedure. Subsequent changes to the rates and bands are given effect through further regulations, which are subject to the provisional affirmative procedure. Changes which are made to tax rates and tax bands by those regulations will only have effect for 28 days (as defined by section 25(2)) unless the regulations are approved by a resolution of the National Assembly for Wales within that period. If the National Assembly for Wales resolves to disapprove those regulations within that period, the regulations will cease to have effect on the day on which the National Assembly for Wales resolves to disapprove them.
37. The regulations setting the rates and bands for residential, higher rates residential and non-residential property transactions may be used to set different rates and bands in relation to different categories of transaction, and different rates and bands for different types of buyer (for example, companies). These rules provide the Welsh Ministers with the power to use rates and bands in a flexible manner to respond to changes in the property market and behaviours of buyers, subject to compliance with other legal obligations.
38. [Section 24](#) also introduces Schedule 5 which contains the rules for higher rates residential property transactions.
39. [Section 26](#) deals with the consequences of regulations ceasing to have effect as a result of section 25(2) or (3). In these cases, subsection (2) provides the general rule that the rates and bands applicable to transactions where the effective date falls within the period between the regulations taking effect and subsequently falling are those specified in

*These notes refer to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (c.1) which received Royal Assent on 24 May 2017*

the regulations that fall (the “interim regulations”). If this results in the buyer paying more LTT than under the original tax bands and rates then a claim for repayment may be submitted under section 63A of TCMA (inserted by Schedule 23 of this Act - see paragraph 426 of these explanatory notes). However, the general rule provided by subsection (2) does not apply where the transaction falls within subsection (4), (5) or (6). These include cases where the effective date falls within the interim period, but the buyer fails to submit a return, or submits a late return after the interim regulations have fallen, or where a further or later return is required after the interim regulations have fallen. In these cases, the rates and bands applicable are those specified in the regulations that would have been in force had the interim regulations not been laid.

40. [Section 27](#) sets out how to calculate the amount of tax chargeable for a land transaction which is not one of a number of “linked transactions” so that each rate of tax is payable on the portion of the chargeable consideration falling within the relevant tax band.
41. If the transaction is one of a number of linked transactions, section 28 applies. In these cases, the amount of tax due for a transaction is calculated by applying each rate of tax to the aggregate chargeable consideration for all the linked transactions, and then dividing the resulting amount to the transaction in proportion to its share of the relevant consideration.
42. In any case where the amount of tax chargeable relates to rent, the provisions of Schedule 6 apply.
43. [Section 29](#) identifies certain relief provisions to which the general calculation of LTT provisions are subject.